

DRAFT RECODIFICATION

Title 79 RCW PUBLIC LANDS

Chapter 79.02 RCW PUBLIC LANDS MANAGEMENT – GENERAL

PART I General Provisions

RCW 79.01.004 RCW 79.02.010 “Public lands,” “state lands” defined Definitions.

The definitions in this section apply throughout this title unless the context clearly requires otherwise.

- (1) “Aquatic lands” means all state-owned tidelands, shorelands, harbor areas, and the beds of navigable waters as defined in Chapter 79.90 RCW that are managed by the department.
{79.90.010}
- (2) “Board” means the board of natural resources.
{43.30.020}
- (3) “Commissioner” means the commissioner of public lands.
{43.30.020}
- (4) “Community and Technical College Forest Reserve lands” means lands managed under RCW 79.02.420.
{76.12.240}
- (5) “Department” means the department of natural resources.
{43.30.020, 76.12.015 & 79.64.010}
- (6) “Improvements” when referring to state lands shall mean anything considered a fixture in law placed upon or attached to such lands that has changed the value of the lands or any changes in the previous condition of the fixtures that changes the value of the lands.
{79.01.036}
- (7) “Land Bank lands” means lands acquired under RCW 79.19.020.
{79.66.020}
- (8) “Person” means an individual, partnership, corporation, association, organization, cooperative, public or municipal corporation, or agency of the federal, state, or local governmental unit, however designated.
{79.90.065}

(9) “Public lands” means lands of the state of Washington ~~are~~ and includes lands belonging to or held in trust by the state, which are not devoted to or reserved for a particular use by law, ~~and~~ They include state lands, tidelands, shorelands, and harbor areas as hereinafter defined in chapter 79.90 RCW, and the beds of navigable waters belonging to the state.

(10) “State forest lands” means lands acquired under RCW 79.22.010, 79.22.020, and 79.22.040.

{76.12.020, 76.12.030 and 76.12.080}

(11) ~~Whenever used in this chapter the term “State lands” shall mean and includes:~~

- (a) School lands, that is, lands held in trust for the support of the common schools;
- (b) University lands, that is, lands held in trust for university purposes;
- (c) Agricultural college lands, that is, lands held in trust for the use and support of agricultural colleges;
- (d) Scientific school lands, that is, lands held in trust for the establishment and maintenance of a scientific school;
- (e) Normal school lands, that is, lands held in trust for state normal schools;
- (f) Capitol building lands, that is, lands held in trust for the purpose of erecting public buildings at the state capital for legislative, executive, and judicial purposes;
- (g) Institutional lands, that is, lands held in trust for state charitable, educational, penal, and reformatory institutions; and
- (h) All public lands of the state, except tidelands, shorelands, harbor areas and the beds of navigable waters.

(12) “Valuable materials,” when referring to state lands or state forest lands, means any product or material on said lands, such as forest products, forage or agricultural crops, stone, gravel, sand, peat, and all other materials of value except mineral, coal, petroleum, and gas as provided for under chapter 79.14 RCW. {79.01.038 & 79.90.060}

{see recodification note at the beginning of chapters 79.13 and 79.15}

RECODIFICATION NOTE: *The definitions of “public lands” and “state lands” in RCW 79.01.004 have not been clarified since 1927. They are, at best, confusing, stating that public lands include state lands and aquatic lands, while state lands include all public lands except aquatic lands.*

Since 1927 many new land designations have been added by the legislature to include forest board lands, land bank lands, natural areas, etc. The definitions above have simply been grouped together from locations as shown, without modification.

These definitions, all referenced to these terms in Title 79, need to be revised and modernized. This will be accomplished in future revisions once this recodification/reorganization is in place.

NEW SECTION RCW 79.02.020 Witnesses—Compelling attendance.

(1) The board of natural resources or the commissioner of public lands has the power to compel through subpoena the attendance of witnesses and production of records for:

- (a) Hearings pertaining to public lands as provided by this title;
- (b) Determining the value and character of land, valuable materials, or improvements; and
- (c) Determining waste or damage to the land.

(2) A subpoena may be served by any person authorized by law to serve process.

(3) Each witness subpoenaed shall be allowed the same fees and mileage as paid witnesses in courts of records in this state. The department shall pay these fees and mileage from its general fund appropriation.

(4) Any witness failing to comply with a subpoena, without legal excuse, is considered in contempt.

(a) The board or commissioner shall certify the facts to the court of the county in which the witness resides for contempt of court proceedings as provided in chapter 7.21 RCW.

(b) The certificate of the board or commissioner shall be considered by the court as prima facie evidence of the guilt of the witness.

(c) Upon legal proof of the facts, the witness is subject to the same penalties as provided in like cases for contempt of court.

{ Combines and replaces RCW 79.01.152 & .704 }

RCW 79.01.500 79.02.030 Court review of actions.

Any applicant to purchase, or lease, any public lands of the state, or any valuable materials thereon, and any person whose property rights or interests will be affected by such sale or lease, feeling ~~himself~~ aggrieved by any order or decision of the board ~~of natural resources~~, or the commissioner ~~of public lands~~, concerning the same, may appeal therefrom to the superior court of the county in which such lands or materials are situated, by serving upon all parties who have appeared in the proceedings in which the order or decision was made, or their attorneys, a written notice of appeal, and filing such notice, with proof, or admission, of service, with the board, or the commissioner, within thirty days from the date of the order or decision appealed from, and at the time of filing the notice, or within five days thereafter, filing a bond to the state, in the penal sum of two hundred dollars, with sufficient sureties, to be approved by the secretary of the board, or the commissioner, conditioned that the appellant shall pay all costs that may be awarded against ~~him~~ the appellant on appeal, or the dismissal thereof. Within thirty days after the filing of notice of appeal, the secretary of the board, or the commissioner, shall certify, under official seal, a transcript of all entries in the records of the board, or the commissioner, together with all processes, pleadings and other papers relating to and on file in the case, except evidence used in such proceedings, and file such transcript and papers, at the expense of the applicant, with the clerk of the court to which the appeal is taken. The hearing and trial of said appeal in the superior court shall be de novo before the court, without a jury, upon the pleadings and papers so certified, but the court may order the pleadings to be amended, or new and further pleadings to be filed. Costs on appeal shall be awarded to the prevailing party as in actions commenced in the superior court, but no costs shall be awarded against the state, the board, or the commissioner. Should judgment be rendered against the appellant, the costs shall be taxed against ~~him~~ the

appellant and ~~his~~ the appellant's sureties on the appeal bond, except when the state is the only adverse party, and shall be included in the judgment, upon which execution may issue as in other cases. Any party feeling ~~himself~~ aggrieved by the judgment of the superior court may seek appellate review as in other civil cases. Unless appellate review of the judgment of the superior court is sought, the clerk of said court shall, on demand, certify, under ~~his~~ the clerk's hand and the seal of the court, a true copy of the judgment, to the board, or the commissioner, which judgment shall thereupon have the same force and effect as if rendered by the board, or the commissioner. In all cases of appeals from orders or decisions of the commissioner ~~of public lands~~ involving the prior right to purchase tidelands of the first class, if the appeal be not prosecuted, heard and determined, within two years from the date of the appeal, the attorney general shall, after thirty days' notice to the appellant of ~~his~~ the attorney general's intention so to do, move the court for a dismissal of the appeal, but nothing herein shall be construed to prevent the dismissal of such appeal at any time in the manner provided by law.

[1988 c 202 § 59; 1988 c 128 § 56; 1971 c 81 § 139; 1927 c 255 § 125; RRS § 7797-125. Prior: 1901 c 62 §§ 1 through 7; 1897 c 89 § 52; 1895 c 178 § 82. Formerly RCW 79.08.030.]

Notes:

Reviser's note: This section was amended by 1988 c 128 § 56 and by 1988 c 202 § 59, each without reference to the other. Both amendments are incorporated in the publication of this section pursuant to RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Severability--1988 c 202: See note following RCW 2.24.050.

RCW ~~79.01.740~~ 79.02.040 Reconsideration of official acts.

The department ~~of natural resources~~ may review and reconsider any of its official acts relating to state lands until such time as a lease, contract, or deed shall have been made, executed, and finally issued, and the department may recall any lease, contract, or deed issued for the purpose of correcting mistakes or errors, or supplying omissions.

[1982 1st ex.s. c 21 § 177; 1927 c 255 § 195; RRS § 7797-195. Formerly RCW 43.65.080.]

Notes:

Savings--Captions--Severability--Effective dates--1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

RCW ~~79.01.240~~ 79.02.050 Effect of mistake or fraud.

(1) Any sale, transfer, or lease of state lands in which the purchaser, transfer recipient, or lessee obtains the sale or lease by fraud or misrepresentation is void, and the contract of purchase or lease shall be of no effect. In the event of fraud, the contract, transferred property, or lease must be surrendered to the department ~~of natural resources~~, but the purchaser, transfer recipient, or lessee may not be refunded any money paid on account of the surrendered contract, transfer, or lease.

(2) In the event that a mistake is discovered in the sale or lease of state lands, or in the sale of valuable materials on state lands, the department may take action to correct the mistake in

accordance with RCW ~~79.01.740~~ 79.02.040 if maintaining the corrected contract, transfer, or lease is in the best interests of the affected trust or trusts.

[2001 c 250 § 11; 1982 1st ex.s. c 21 § 164; 1959 c 257 § 28; 1927 c 255 § 60; RRS § 7797-60. Prior: 1903 c 79 § 3. Formerly RCW 79.12.280.]

RCW ~~79.01.765~~ 79.02.080 Rewards for information regarding violations.

The department of ~~natural resources~~ is authorized to offer and pay a reward not to exceed ten thousand dollars in each case for information regarding violations of any statute or rule relating to the state's public lands and natural resources on those lands, except forest practices under chapter 76.09 RCW. No reward may be paid to any federal, state, or local government or agency employees for information obtained by them in the normal course of their employment. The department of ~~natural resources~~ is authorized to adopt rules in pursuit of its authority under this section to determine the appropriate account or fund from which to pay the reward. The department is also authorized to adopt rules establishing the criteria for paying a reward and the amount to be paid. No appropriation shall be required for disbursement.

[1994 c 56 § 1; 1990 c 163 § 8.]

RCW ~~79.08.170~~ 79.02.090 Transfer of county auditor's duties to county treasurer.

The duties of the county auditor in each county with a population of two hundred ten thousand or more, with regard to sales and leases ~~of the state lands~~ dealt with under ~~Title 79 RCW this title~~ except RCW ~~79.01.100~~ 79.11.250, ~~79.01.104~~ 79.11.260, and 79.94.040, are transferred to the county treasurer.

{focus is on the duties of the county treasurer; the reference to state lands adds nothing}

[1991 c 363 § 152; 1983 c 3 § 201; 1955 c 184 § 1.]

Notes:

Purpose--Captions not law--1991 c 363: See notes following RCW 2.32.180.

RCW ~~79.01.093~~ 79.02.095 Statutes not applicable to state tidelands, shorelands, harbor areas, and the beds of navigable waters.

RCW ~~79.01.092~~ 79.11.080, 79.13.040, 79.13.050, ~~79.01.096~~ 79.11.010, 79.13.060, 79.17.100, ~~79.01.136~~ 79.11.110, 79.13.160, ~~79.01.140~~ 79.13.310, ~~79.01.148~~ 79.11.160, ~~79.01.244~~ 79.13.300, ~~79.01.248~~ 79.13.130, ~~79.01.252~~ 79.13.120, ~~79.01.256~~ 79.13.030, 79.13.140, ~~79.01.260~~, ~~79.01.264~~, ~~79.01.268~~ 79.13.180, ~~79.01.724~~ 79.02.260, ~~79.12.570~~ 79.13.320, ~~79.28.080~~ 79.13.410, ~~79.01.242~~ 79.13.010, 79.13.020, 79.13.070, 79.13.110,

79.13.120, and ~~79.01.277~~ do not apply to state tidelands, shorelands, harbor areas, and the beds of navigable waters.

{new sections are aligned with old for ease of tracking. Final bill will order new sections numerically}

[1979 ex.s. c 109 § 22.]

Notes:

Severability--Effective date--1979 ex.s. c 109: See notes following RCW 79.01.036.

PART II Federal Land Grants

RCW ~~79.01.732~~ 79.02.100 Appearance by commissioner before United States land offices.

The commissioner of public lands is authorized and directed to appear before the United States land offices in all cases involving the validity of the selections of any lands granted to the state, and to summon witnesses and pay necessary witness fees and stenographer fees in such contested cases.

[1927 c 255 § 193; RRS § 7797-193. Formerly RCW 43.12.070.]

RCW ~~79.01.308~~ 79.02.110 Applications for federal certification that lands are nonmineral.

The commissioner of public lands is authorized and directed to make applications, and to cause publication of notices of applications, to the interior department of the United States for certification that any land granted to the state is nonmineral in character, in accordance with the rules of the general land office of the United States.

[1927 c 255 § 77; RRS § 7797-77. Prior: 1897 c 89 § 33. Formerly RCW 79.08.130.]

{Sections 79.02.120 through 79.02.150, below are no longer needed and should be repealed. They remain in this draft for review and comment.}

RCW ~~79.28.010~~ 79.02.120 ~~Agreements for selection~~ Lieu Lands—Selection agreements authorized.

For the purpose of obtaining from the United States indemnity or lieu lands for such lands granted to the state for common schools, educational, penal, reformatory, charitable, capitol building or other purposes, as have been or may be lost to the state, or the title to or use or possession of which is claimed by the United States or by others claiming by, through or

under the United States, by reason of any of the causes entitling the state to select other lands in lieu thereof, the inclusion of the same in any reservation by or under authority of the United States, or any other appropriation or disposition of the same by the United States, whether such lands are now surveyed or unsurveyed, the ~~department of natural resources~~, with the advice and approval of the attorney general, is authorized and empowered to enter into an agreement or agreements, on behalf of the state, with the proper officer or officers of the United States for the relinquishment of any such lands and the selection in lieu thereof, under the provisions of RCW ~~79.28.010~~ 79.02.120 through ~~79.28.030~~ 79.02.140, of lands of the United States of equal area and value.

[1988 c 128 § 63; 1913 c 102 § 1; RRS § 7824.]

RCW ~~79.28.020~~ 79.02.130 Lieu lands--Examination and appraisal.

Upon the making of any such agreement, the board ~~of natural resources~~ shall be empowered and it shall be its duty to cause such examination and appraisal to be made as will determine the area and value, as nearly as may be, of the lands lost to the state, or the title to, use or possession of which is claimed by the United States by reason of the causes mentioned in RCW ~~79.28.010~~ 79.02.120, and proposed to be relinquished to the United States, and shall cause an examination and appraisal to be made of any lands which may be designated by the officers of the United States as subject to selection by the state in lieu of the lands aforesaid, to the end that the state shall obtain lands in lieu thereof of equal area and value.

[1988 c 128 § 64; 1913 c 102 § 2; RRS § 7825.]

RCW ~~79.28.030~~ 79.02.140 Lieu lands--Transfer of title to lands relinquished.

Whenever the title to any lands selected under the provisions of RCW ~~79.28.010~~ 79.02.120 through ~~79.28.030~~ 79.02.140 shall become vested in the state of Washington by the acceptance and approval of the lists of lands so selected, or other proper action of the United States, the governor, on behalf of the state of Washington, shall execute and deliver to the United States a deed of conveyance of the lands of the state relinquished under the provisions of RCW ~~79.28.010~~ 79.02.120 through ~~79.28.030~~ 79.02.140, which deed shall convey to and vest in the United States all the right, title and interest of the state of Washington therein.

[1913 c 102 § 3; RRS § 7826.]

RCW ~~79.01.080~~ 79.02.160 Relinquishment on failure or rejection of selection.

In case any person interested in any tract of land heretofore selected by the territory of Washington or any officer, board or agent thereof or by the state of Washington or any officer, board or agent thereof or which may be hereafter selected by the state of Washington or the ~~commissioner of public lands department~~, in pursuance to any grant of public lands made by the

United States to the territory or state of Washington for any purpose or upon any trust whatever, the selection of which has failed or been rejected or shall fail or shall be rejected for any reason, shall request it, the ~~commissioner of public lands~~ department shall have the authority and power on behalf of the state to relinquish to the United States such tract of land.

[1927 c 255 § 20; RRS § 7797-20. Prior: 1899 c 63 § 1. Formerly RCW 79.08.060.]

PART III

Contracts / Records / Fees / Applications

RCW ~~79.01.304~~ 79.02.200 Abstracts of state public lands.

The ~~commissioner of public lands~~ department shall cause full and correct abstracts of all ~~the state public~~ lands to be made and kept ~~in his office~~ in suitable and well bound books, and other suitable records. Such abstracts shall show in proper columns and pages the section or part of section, lot or block, township and range in which each tract is situated, whether timber or prairie, improved or unimproved, the appraised value per acre, the value of improvements and the value of damages, and the total value, the several values of timber, stone, gravel, or other valuable materials thereon, the date of sale, the name of purchaser, sale price per acre, the date of lease, the name of lessee, the term of the lease, the annual rental, amount of cash paid, amount unpaid and when due, amount of annual interest, and in proper columns such other facts as may be necessary to show a full and complete abstract of the conditions and circumstances of each tract or parcel of land from the time the title was acquired by the state until the issuance of a deed or other disposition of the land by the state.

{Incorporates state-owned aquatic lands. See RCW 79.90.380}

[1982 1st ex.s. c 21 § 166; 1927 c 255 § 76; RRS § 7797-76. Prior: (i) 1897 c 89 § 32; RRS § 7823. (ii) 1911 c 59 § 9; RRS § 7899. Formerly RCW 43.12.080.]

Notes:

Savings--Captions--Severability--Effective dates--1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

RCW ~~79.01.708~~ 79.02.210 Maps and plats--Record and index--Public inspection.

All maps, plats and field notes of surveys, required to be made by this ~~chapter title~~ shall, after approval by the department of natural resources, ~~or the commissioner of public lands, as the case may be,~~ be deposited and filed in the office of the ~~commissioner of public lands~~ department, ~~who which~~ shall keep a careful and complete record and index of all maps, plats and field notes of surveys in ~~his~~ its possession, in well bound books, which shall at all times be open to public inspection.

[1988 c 128 § 57; 1927 c 255 § 187; RRS § 7797-187. Formerly RCW 43.12.110.]

RCW ~~79.01.712~~ 79.02.220 Seal.

All notices, orders, contracts, certificates, rules and regulations, or other documents or papers made and issued by or on behalf of the department ~~of natural resources~~, or the commissioner ~~of public lands~~, as provided in this ~~chapter title~~, shall be authenticated by a seal whereon shall be the vignette of George Washington, with the words "Seal of the commissioner of public lands, State of Washington."

[1988 c 128 § 58; 1927 c 255 § 188; RRS § 7797-188. Formerly RCW 43.65.070.]

RCW ~~79.01.084~~ 79.02.230 Blank forms of applications for Appraisal, sale and lease of state lands--Blank forms of applications.

The ~~commissioner of public lands~~ department shall cause to be prepared, and furnish to applicants, blank forms of applications for the appraisal, transfer, and purchase of any state lands and the purchase of valuable materials situated thereon, and for the lease of state lands. These forms shall contain instructions to inform and aid applicants.

[2001 c 250 § 1; 1982 1st ex.s. c 21 § 150; 1959 c 257 § 2; 1927 c 255 § 21; RRS § 7797-21. Prior: 1909 c 223 § 2; 1907 c 256 § 5; 1903 c 74 § 1; 1897 c 89 § 11; 1895 c 178 §§ 17, 18. Formerly RCW [79.08.040](#).]

Notes:

Savings--Captions--Severability--Effective dates--1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

RCW ~~79.01.720~~ 79.02.240 Fees.

The ~~commissioner of public lands~~ for services performed by him department, may charge and collect fees as determined by the board ~~of natural resources~~ for each category of services performed based on costs incurred.

[1979 ex.s. c 109 § 18; 1959 c 153 § 1; 1927 c 255 § 190; RRS § 7797-190. Formerly RCW 43.12.120.]

Notes:

Severability--Effective date--1979 ex.s. c 109: See notes following RCW 79.01.036.

NEW SECTION 79.02.250 Reasonable Fees--Disposition

(1) Applications for the purchase or use of lands and the sale of valuable materials by the department, shall be accompanied by reasonable fees to be prescribed by the board in an amount sufficient to defray the cost of performing or otherwise providing for the processing, review, or inspection of the applications or activities permitted pursuant to the applications for each category of services performed.

(2) Fees shall be credited to the resource management cost account fund as established under RCW 79.64.020, the forest development account fund as established under RCW 79.64.100, or the agricultural college trust management account fund as established under RCW 79.64.090, as applicable.

{ from 79.01.088 and 79.64.090 }

RCW ~~79.01.724~~ 79.02.260 Fee book--~~Verification.~~

The ~~commissioner of public lands~~ department shall keep a fee book, in which shall be entered all fees received by ~~him~~, with the date paid and the name of the person paying the same, and the nature of the services rendered for which the fee is charged which book shall be verified monthly by ~~his~~ affidavit entered therein, and All fees collected by ~~him~~ the department shall be paid into the state treasury, as applicable, to the *RMCA resource management cost account, created in RCW 79.64.020, the forest development account, created in RCW 79.64.100, or the agricultural college trust management account fund, as established under RCW 79.64.090, within the general fund and the receipt of the state treasurer taken therefor and retained in the office of the commissioner of public lands department's Olympia office as a voucher.

[1979 ex.s. c 109 § 19; 1927 c 255 § 191; RRS § 7797-191. Formerly RCW 43.12.130.]

Notes:

Reviser's note: *(1) "RMCA" apparently refers to the resource management cost account created in RCW 79.64.020. See RCW 79.01.088.

**RCW ~~79.01.220~~ 79.02.270 Sale procedure--~~Certificate to governor of payment in full--~~
~~Deed.~~**

When the entire purchase price of any state lands shall have been fully paid, the commissioner of public lands shall certify such fact to the governor, and shall cause a quit claim deed signed by the governor and attested by the secretary of state, with the seal of the state attached thereto, to be issued to the purchaser and to be recorded in the department's Olympia office, of the commissioner of public lands, and N no fee shall be is required for any deed of land issued by the governor other than the fee provided for in this ~~chapter~~ title.

[1982 1st ex.s. c 21 § 160; 1959 c 257 § 25; 1927 c 255 § 55; RRS § 7797-55. Prior: 1917 c 149 § 1; 1915 c 147 § 3; 1907 c 256 § 3; 1897 c 89 § 16; 1895 c 178 §§ 25, 29. Formerly RCW 79.12.390.]

Notes:

Savings--Captions--Severability--Effective dates--1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

RCW ~~79.01.292~~ 79.02.280 Assignment of contracts or leases.

All contracts of purchase, or leases, of state lands issued by the department ~~of natural resources~~ shall be assignable in writing by the contract holder or lessee and the assignee shall be subject to and governed by the provisions of law applicable to the ~~purchaser, or lessee, of whom he is the assignee,~~ assignor and shall have the same rights in all respects as the original purchaser, or lessee, of the lands, provided the assignment is approved by the department ~~of natural resources~~ and entered of record in its office.

[1982 1st ex.s. c 21 § 165; 1927 c 255 § 73; RRS § 7797-73. Prior: 1903 c 79 § 8. Formerly RCW 79.12.270.]

Notes:

Savings--Captions--Severability--Effective dates--1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

RCW ~~79.01.236~~ 79.02.290 Subdivision of contracts or leases--Fee.

Whenever the holder of a contract of purchase of any state lands, or the holder of any lease of any such lands, except for mining of valuable minerals or coal, or extraction of petroleum or gas, shall surrender the same to the ~~commissioner~~ department with the request to have it divided into two or more contracts, or leases, the ~~commissioner~~ department may divide the same and issue new contracts, or leases, but no new contract, or lease, shall issue while there is due and unpaid any interest, rental, or taxes or assessments on the land held under such contract or lease, nor in any case where the ~~commissioner~~ department is of the opinion that the state's security would be impaired or endangered by the proposed division. For all such new contracts, or leases, a fee as ~~determined by the board of natural resources for each new contract or lease issued, provided under chapter 79.02 RCW,~~ shall be paid by the applicant ~~and such fee shall be paid into the state treasury to the resource management cost account fund established in the general fund pursuant to RCW 79.64.010.~~

[1982 1st ex.s. c 21 § 163; 1979 ex.s. c 109 § 8; 1959 c 257 § 27; 1955 c 394 § 2; 1927 c 255 § 59; RRS § 7797-59. Prior: 1903 c 79 § 3. Formerly RCW 79.12.260.]

Notes:

Savings--Captions--Severability--Effective dates--1982 1st ex.s. c 21: See RCW 79.96.901 through 79.96.905.

Severability--Effective date--1979 ex.s. c 109: See notes following RCW 79.01.036.

PART IV

Trespass / Regulations / Penalties

RCW ~~79.01.760~~ 79.02.300 Trespass, waste, ~~damages~~ Prosecutions Department to investigate.

(1) Every person who, without authorization, uses or occupies public lands, removes any valuable material as defined in RCW ~~79.01.038~~ 79.02.010 from public lands, or causes waste or damage to public lands, or injures publicly owned personal property or publicly owned improvements to real property on public lands, is liable to the state for treble the amount of the damages. However, liability shall be for single damages if the department ~~of natural resources~~ determines, or the person proves upon trial, that the person, at time of the unauthorized act or

acts, did not know, or have reason to know, that he or she lacked authorization. Damages recoverable under this section include, but are not limited to, the market value of the use, occupancy, or things removed, had the use, occupancy, or removal been authorized; and any damages caused by injury to the land, publicly owned personal property or publicly owned improvement, including the costs of restoration. In addition, the person is liable for reimbursing the state for its reasonable costs, including but not limited to, its administrative costs, survey costs to the extent they are not included in damages awarded for restoration costs, and its reasonable attorneys' fees and other legal costs.

(2) This section does not apply in any case where liability for damages is provided under RCW 64.12.030, 4.24.630, ~~79.01.756~~ 79.02.320, or ~~79.40.070-79.02.340~~.

(3) The department ~~of natural resources~~ is authorized and directed to investigate all trespasses and wastes upon, and damages to, public lands of the state, and to cause prosecutions for, and/or actions for the recovery of, the same, to be commenced as is provided by law.

[1994 c 280 § 2; 1993 c 266 § 1; 1927 c 255 § 200; RRS § 7797-200. Prior: 1897 c 89 § 64; 1895 c 178 § 99. Formerly RCW 79.40.040.]

Notes:

Waste and trespass: Chapter 64.12 RCW.

RCW ~~79.01.748~~ 79.02.310 Trespasser guilty of larceny, when.

Every person who wilfully commits any trespass upon any public lands of the state and cuts down, destroys or injures any timber, or any tree standing or growing thereon, or takes, or removes, or causes to be taken, or removed, therefrom any wood or timber lying thereon, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes or removes therefrom any earth, soil, stone, mineral, clay, sand, gravel, or any valuable materials, shall be guilty of larceny.

[1927 c 255 § 197; RRS § 7797-197. Prior: 1889-90 pp 124-125 §§ 1, 4. Formerly RCW 79.40.010.]

RCW ~~79.01.756~~ 79.02.320 Removal of timber, manufacture into articles--Treble damages.

Every person who shall cut or remove, or cause to be cut or removed, any timber growing or being upon any public lands of the state, or who shall manufacture the same into logs, bolts, shingles, lumber or other articles of use or commerce, unless expressly authorized so to do by a bill of sale from the state, or by a lease or contract from the state under which he holds possession of such lands, or by the provisions of law under and by virtue of which such bill of sale, lease or contract was issued, shall be liable to the state in treble the value of the timber or other articles so cut, removed or manufactured, to be recovered in a civil action, and shall forfeit to the state all interest in and to any article into which said timber is manufactured.

[1927 c 255 § 199; RRS § 7797-199. Prior: 1897 c 89 § 66; 1895 c 178 § 101. Formerly RCW 79.40.030.]

Notes:

Firewood on state lands: Chapter 76.20 RCW. {recodified as 79.15 RCW}

Injunction to prevent waste on public land: RCW 64.12.050.

Injury to or removing trees, etc.--Damages: RCW 64.12.030.

Penalty for destroying native flora: RCW 47.40.080.

RCW ~~79.01.752~~ 79.02.330 Lessee or contract holder guilty of misdemeanor, ~~when~~.

Every person being in lawful possession of any public lands of the state, under and by virtue of any lease or contract of purchase from the state, cuts down, destroys or injures, or causes to be cut down, destroyed or injured, any timber standing or growing thereon, or takes or removes, or causes to be taken or removed, therefrom, any wood or timber lying thereon, or maliciously injures or severs anything attached thereto, or the produce thereof, or digs, quarries, mines, takes or removes therefrom, any earth, soil, clay, sand, gravel, stone, mineral or other valuable material, or causes the same to be done, or otherwise injures, defaces or damages, or causes to be injured, defaced or damaged, any such lands unless expressly authorized so to do by the lease or contract under which ~~he holds~~ possession of such lands is held, or by the provisions of law under and by virtue of which such lease or contract was issued, shall be guilty of a misdemeanor.

[1927 c 255 § 198; RRS § 7797-198. Prior: 1899 c 34 §§ 1 through 3. Formerly RCW 79.40.020.]

**RCW ~~79.40.070~~ 79.02.340 ~~Cutting, breaking, removing~~ Removal of Christmas trees--
Compensation.**

It shall be unlawful for any person to enter upon any of the state lands, including all land under the jurisdiction of the department ~~of natural resources~~, or upon any private land without the permission of the owner thereof and to cut, break or remove therefrom for commercial purposes any evergreen trees, commonly known as Christmas trees, including fir, hemlock, spruce, and pine trees. Any person cutting, breaking or removing or causing to be cut, broken or removed, or who cuts down, cuts off, breaks, tops, or destroys any of such Christmas trees shall be liable to the state, or to the private owner thereof, for payment for such trees at a price of one dollar each if payment is made immediately upon demand. Should it be necessary to institute civil action to recover the value of such trees, the state in the case of state lands, or the owner in case of private lands, may exact treble damages on the basis of three dollars per tree for each tree so cut or removed.

[1988 c 128 § 66; 1955 c 225 § 1; 1937 c 87 § 1; RRS § 8074-1.]

RCW ~~79.40.080- 79.02.350~~ ~~Construction--1937 c 87~~ Disclaimer.

RCW ~~79.40.070~~ 79.02.340 is not intended to repeal or modify any of the provisions of existing statutes providing penalties for the unlawful removal of timber from state lands.

[1937 c 87 § 2; RRS § 8074-2.]

NEW SECTION RCW 79.02.370 Protection against cedar theft.

The board must establish procedures to protect against cedar theft and to ensure adequate notice is given for persons interested in purchasing cedar.

{79.01.132 (9)}

PART V

Other Trust / Grant / Forest Reserve Lands.

RCW ~~79.01.006~~ 79.02.400 Charitable, educational, penal, and reformatory institutions real property (C.E.P. & R.I.)--Inventory--Transfer.

(1) Every five years the department of social and health services and other state agencies that operate institutions shall conduct an inventory of all real property subject to the charitable, educational, penal, and reformatory institution account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled. The inventory shall identify which of those real properties are not needed for state-provided residential care, custody, or treatment. By December 1, 1992, and every five years thereafter the department shall report the results of the inventory to the house of representatives committee on capital facilities and financing, the senate committee on ways and means, and the joint legislative audit and review committee.

(2) Real property identified as not needed for state-provided residential care, custody, or treatment shall be transferred to the corpus of the charitable, educational, penal, and reformatory institution account. This subsection shall not apply to leases of real property to a consortium of three or more counties in order for the counties to construct or otherwise acquire correctional facilities for juveniles or adults or to real property subject to binding conditions that conflict with the other provisions of this subsection.

(3) The department of natural resources shall manage all property subject to the charitable, educational, penal, and reformatory institution account and, in consultation with the department of social and health services and other affected agencies, shall adopt a plan for the management of real property subject to the account and other real property acquired for institutional purposes or for the benefit of the blind, deaf, mentally ill, developmentally disabled, or otherwise disabled.

(a) The plan shall be consistent with state trust land policies and shall be compatible with the needs of institutions adjacent to real property subject to the plan.

(b) The plan may be modified as necessary to ensure the quality of future management and to address the acquisition of additional real property.

[1996 c 288 § 51; 1996 c 261 § 1; 1991 c 204 § 1.]

Notes:

Reviser's note: This section was amended by 1996 c 261 § 1 and by 1996 c 288 § 51, each without reference to the other. Both amendments are incorporated in the publication of this section under RCW 1.12.025(2). For rule of construction, see RCW 1.12.025(1).

Department of social and health services duty: RCW 43.20A.035.

RCW ~~79.01.007~~ 79.02.410 Charitable, educational, penal, and reformatory real property--High economic return potential--Income.

Where ~~C.E.P. & R.I.~~ charitable, educational, penal, and reformatory institutions land has the potential for lease for commercial, industrial, or residential uses or other uses with the potential for high economic return and is within urban or suburban areas, the department ~~of natural resources~~ shall make every effort consistent with trust land management principles and all other provisions of law to lease the lands for such purposes, unless the land is subject to a lease to a state agency operating an existing state institution. The department ~~of natural resources~~ is authorized, subject to approval by the board ~~of natural resources~~ and only if a higher return can be realized, to exchange such lands for lands of at least equal value and to sell such lands and use the proceeds to acquire replacement lands. The department shall report to the appropriate legislative committees all ~~C.E.P. & R.I.~~ charitable, educational, penal, and reformatory institutions land purchased, sold, or exchanged. Income from the leases shall be deposited in the charitable, educational, penal, and reformatory institutions account. The legislature shall give priority consideration to appropriating one-half of the money derived from lease income to providing community housing for persons who are mentally ill, developmentally disabled, or youth who are blind, deaf, or otherwise disabled.

[1991 c 204 § 5.]

RCW ~~76.12.240~~ 79.02.420 Finding--Intent--Community and technical college forest reserve land base--Management--Disposition of revenue.

(1) The legislature finds that the state's community and technical colleges need a dedicated source of revenue to augment other sources of capital improvement funding. The intent of this section is to ensure that the forest land purchased under section 310, chapter 16, Laws of 1990 1st ex. sess. and known as the community and technical college forest reserve land base, is managed in perpetuity and in the same manner as state forest lands for sustainable commercial forestry and multiple use of lands consistent with RCW ~~79.68.050~~ 79.10.120. These ~~state~~ lands will also be managed to provide an outdoor education and experience area for organized groups. The lands will provide a source of revenue for the long-term capital improvement needs of the

state community and technical college system.

(2) There has been increasing pressure to convert forest lands within areas of the state subject to population growth. Loss of forest land in urbanizing areas reduces the production of forest products and the available supply of open space, watershed protection, habitat, and recreational opportunities. The land known as the community and technical college forest reserve land base is forever reserved from sale. However, the timber and other products on the land may be sold, or the land may be leased in the same manner and for the same purposes as authorized for state granted lands if the department finds the sale or lease to be in the best interest of this forest reserve land base and approves the terms and conditions of the sale or lease.

(3) The land exchange and acquisition powers provided in RCW ~~76.12.050~~ 79.17.020 may be used by the department to reposition land within the community and technical college forest reserve land base consistent with subsection (1) of this section.

(4) Up to twenty-five percent of the revenue from these lands, as determined by the board of natural resources, will be deposited in the forest development account to reimburse the forest development account for expenditures from the account for management of these lands.

(5) The community college forest reserve account, created under section 310, chapter 16, Laws of 1990 1st ex. sess., is renamed the community and technical college forest reserve account. The remainder of the revenue from these lands must be deposited in the community and technical college forest reserve account. Money in the account may be appropriated by the legislature for the capital improvement needs of the state community and technical college system or to acquire additional forest reserve lands.

{This statute applies to "state forest lands." To avoid confusion the word "state" has been deleted in the third sentence of paragraph (1).}

[1996 c 264 § 1.]